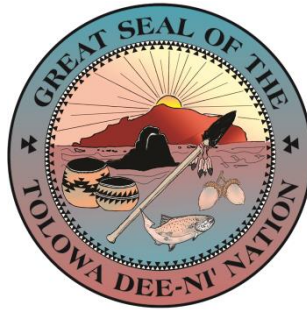


TOLOWA DEE-NI' NATION



REQUEST FOR PROPOSALS

Wastewater Infrastructure Design and Construction Phase Services

Response Due: July 14, 2016 at 5:00PM

Tolowa Dee-ni' Nation
140 Rowdy Creek Road
Smith River, CA 95567
707-487-9255

June 23, 2016

Request for Proposals

Wastewater Infrastructure Design Services

June 23, 2016

INTRODUCTION

The Tolowa Dee-ni' Nation (Tribe) is soliciting proposals from qualified consultants for project design, preparation of construction contract documents, & project management for the Tribe's Wastewater Infrastructure Project, Prince Island Court Wastewater Extension. It is the intent of the Tribe to hire a qualified Consultant who can provide project management, preliminary design, and final design services, culminating in the preparation of contract documents including plans, specifications, and construction cost estimates, complete and ready for solicitation of construction bids. In order for the Consultant to be considered qualified, the firm or project team must demonstrate experience in the successful completion of projects involving wastewater collection systems and pump station evaluation and design.

Interested consultants are invited to submit qualifications in accordance with the requirements of this Request for Proposals (RFP). The Tribe anticipates accomplishing all work associated with the project for approximately \$100,000 for design, development of bid documents, development of HUD approved format NEPA Environmental Assessment, development of Storm Water Pollution Protection Plan (SWPPP), environmental compliance, permitting (including Coastal Grading Permit), construction management, and \$610,000 for actual construction. These estimates were based on prior engineer's estimate, with consideration that substantial project design has already been completed as part of prior projects. The successful Consultant must be aware of the financing limitations and be able to provide a clear plan for delivering a bid package that meets the goals within the project budget constraints.

The Consultant services contract is expected to be awarded by July 22, 2016 and contract documents completed by July 30, 2016. The actual time frame to complete this design work will be negotiated with the successful Consultant. The Tribe intends to select a single consultant team for all aspects of the work necessary to complete the contract documents. Any Consultant responding to the RFP must be willing to commit the necessary resources to the project within a mutually agreed upon schedule.

BACKGROUND

The Tolowa Dee-ni' Nation completed its new wastewater treatment facility (WWTF) in April 2009 and has run in compliance with all governing regulations since that date. The WWTF was designed to treat an average daily flow of 25,000 gallons per day (gpd) with the ability to expand to 50,000 gpd in the future with the addition of a second membrane bioreactor (MBR). However, without an adequate collection system in place to deliver the design flows, recirculation is needed to maintain hydraulic loading. The WWTF is currently treating approximately 14,000 -16,000 (~60% of capacity) of wastewater from the Lucky 7 Casino, the Lucky 7 Fuel Mart, and the House of Howonquet Restaurant, Howonquet Lodge Hotel (70 rooms), 14 residences, Howonquet Hall Community Center (including Elder Nutrition Site), and Elder Housing Facilities (12 units). Therefore, the WWTF has considerable capacity to serve additional residences and businesses within the Tribal community.

The Tolowa Dee-ni' Nation is proposing to extend the collection system gravity sewer main from South Indian Road, down Prince Island Court (Figure 1 & 2). Also included will be a pump station and force main back up Prince Island Court, connecting with existing collection system.

SCOPE OF SERVICES

Consultant Services:

The scope of services to be provided by the Consultant shall consist of the following five Tasks:

Task 1: Project Management

The Consultant shall be responsible for providing all contract management and quality control services throughout the duration of the project.

Scope of Services:

Project management responsibilities shall include, but not be limited to:

- All meetings, agendas, and minutes.
- Coordinate and consult with all appropriate local and state regulatory agencies to ensure clearance for project construction.
- Schedules and schedule updates.
- Prepare and submit monthly progress report with monthly progress payment request. The monthly progress report shall include:
 - An overview of work accomplished during the previous month;
 - A description of current key activities and an updated schedule for each task and subtask;
 - A list of problem areas, if any, and proposed corrective actions;
 - A list of tasks for the following month;
 - A monthly written report showing total contract budget, monthly invoiced amounts, cumulative amount invoiced, and project billings to the end of project, and;
 - A Schedule Summary indicating whether the project is on schedule and any schedule concerns or critical path items (a Recovery Plan/Schedule for any activities that fall more than 2 weeks behind schedule shall be prepared).
- Quality Assurance/Quality Control Program.
- Correspondence and file maintenance.

The Consultant's Project Manager shall play an active role in the management and coordination of the project, including coordinating monthly meetings with Tribal staff to discuss project status, problems, budgeting, and other areas that have an adverse effect on the work.

Task 2: Pre-Design

The Consultant shall provide preliminary engineering design services and shall prepare a Preliminary Design Report for the project that encompasses all work items.

- Prepare a Pre-Design Report (PDR) that identifies each relevant design item, outlines the design including alternatives, right-of-way issues, constructability analysis, and estimated construction costs. The level of detail provided in the PDR should be equivalent to a 30% design effort for each major element of the project.

Task 3: Environmental Compliance and Permitting

The following will be required for the project:

Del Norte County Permits

- The County will require a Coastal Grading Permit, Plan Check, and CEQA. The standard fee for the county permits is 1 percent of the engineer's construction cost estimate.
- The County charges a construction supervision fee which is 1-3 percent of the engineer's estimated construction costs which occur in the county right of way. Note that the County does not conduct construction observation in the field for this fee, and the Nation will be required to supply a construction observer. The encroachment

permit will be Included in the construction supervision fee.

NEPA

- Because most of the project serves Tribal land, a National Environmental Policy Act (NEPA) document is required by the Federal government. All NEPA compliance documents shall be prepared in conformance with the requirements of the U.S. Department of Housing and Urban Development as described in 24 CFR Part 58 "Environmental Review Procedures for Title I Community Development Block Grant Programs" and Section 57.605 of 24 CFR which requires that the policies of the NEPA as specified in 24 CFR part 58 are effectively implemented prior to release of federal funds. It is anticipated that an Environmental Assessment (formally known as Format III) will be required for this project, which shall be performed pursuant to the program guide issued by the U.S. Department of Housing and Urban Development dated November 2000 and utilizing the format developed by the Pacific Region of HUD dated March 2005 for the preparation of the document.

Storm Water Pollution Prevention Plan (SWPPP)

- A storm water pollution prevention plan will be required for this project. The Consultant will create the plan for the construction phase of the project.

Task 4: Design Services

The Consultant shall provide engineering design services and shall prepare all contract documents (construction plans, specifications, and cost estimates) for the project.

Scope of Services:

PS&E services shall include, but not be limited to:

- Prepare all field topographic and control surveys, and prepare base mapping for design.
- Complete all soils reports.
- Complete all floodplain engineering, surveying, analysis and investigation.
- Coordinate with existing Utility Companies as required to ensure horizontal and vertical conflicts are identified and resolved through design or relocations.
- Prepare all design calculations and drawing layouts. Complete all drawings and details, prepare technical specifications, special provisions, engineer's cost opinions, and all other appropriate architectural and engineering services necessary to provide complete contract documents, ready for public bid (design work shall comply with all appropriate federal, state and local design codes and guidelines, including ADA, fire protection, and building codes).

Task 5: Assistance during Bidding & Construction

The Consultant shall provide assistance to the Tribe during the bidding and construction phases of the project to ensure the Contractor understands all technical aspects of the design and any design changes.

Scope of Services:

This assistance shall include, but not be limited, to:

- Conduct pre-bid meeting with prospective bidders to answer contractor and supplier technical questions.
- Respond to contractor and supplier technical questions during bidding, maintain a log of bidder questions, and prepare any addenda required.
- Provide any drawings, modifications, and clarifications during the bidding period.
- Attend bid openings and prepare an analysis of bids received for the project.
- Attend one preconstruction conference to ensure contractor understanding of the project plans.

- Assist the Tribe in the preparation of change orders and responses to requests for information related to design technical issues encountered.
- Prepare design clarifications to clarify the design intent.
- Assist in construction project management & inspection, as needed.
- Attend all final construction inspections.
- Prepare record drawings following construction from mark ups by the contractor and resident engineer. Submittal requirements for record drawings shall be the same as for the final bid documents.

PROPOSAL FORMAT

The proposal shall include, as a minimum, the following information:

- Cover/Transmittal Letter – Letter is to be signed by a member of the organization having the authority to negotiate and execute contracts on behalf of the firm. Cover letter must acknowledge receipt of any and all addenda, if any were issued.
- Project Understanding - This section should outline the Consultant's basic understanding of the project. It should identify key issues to be addressed during the project and any insights or innovative ideas the Consultant can provide in addressing those issues.
- Scope of Work - Describe the work plan that you intend to use to complete the tasks listed in the Scope of Services. Note any changes/deviations or additions to the work descriptions that may have been overlooked or that help clarify the work tasks. Deviations which demonstrate a clear benefit or advantage to the Tribe may receive special consideration.
- Responsible Personnel - List the Principal-in-Charge, Project Manager, and key project staff who will be directly involved in this project. Include a concise statement of qualifications and experience of each person together with the **hours that each is committed to the project**. Include all anticipated sub-consultants, listing names, addresses, telephone numbers, key staff personnel, and the expected hours to be committed to the project. A project organizational chart of key personnel should be included with anticipated hours committed to the project for each individual.
- Project Management - Describe how the project will be planned and controlled. Include in this section a project schedule through the completion of the contract documents together with a tentative schedule for construction.
- Consultant Fee – In a separate, sealed envelope present one (1) set of documentation for the estimated fee for engineering services as described in the Scope of Work. For each task contained in this RFP, break down the fee into labor, subcontractor fees, and expenses. Fees shall include all markups, overhead, and profit. Consultant shall also include a current fee schedule that includes hourly rates for all classifications of workers, including subcontractors, expected to work on this project. The engineering contract shall provide for payment for each phase of work on a not-to-exceed amount. The Consultant should be advised that pursuant to the Tolowa Dee-ni' Nation Tribal Employment Rights Ordinance, there is a 2.5% TERO fee on the total value of the Consultant Fee. *The fee shall not be a scoring factor in the evaluation of the consulting firms. See 'Evaluation Criteria' for information on the submitting of the Consultant fee with the proposal*

The Consultant shall prepare the fee estimate for the contract work as described in the Scope of Services. The cost estimate shall be broken down by task, man-hours per task, different personnel classifications per man-hour (i.e., Principal, Project Manager, Staff Engineer, Clerical, etc.), provide a total cost per task, and a total not-to-exceed amount for the entire project. Fees shall include all markups, overhead,

and profit. The estimated fee shall be submitted in a sealed envelope along with copies of the proposal and shall not be opened until the proposal review and interview process has been completed. *Do not state cost for services anywhere in the proposal.*

- Related Experience - Include three projects in progress or completed during the last three (3) years that are comparable to this project. Direct design experience in wastewater collection and conveyance system projects will be weighted the highest in evaluation. Include references with names, addresses and phone numbers.
- Indian Preference – As appropriate, include documentation that the Consultant is Native American Owned; or employs key employees as defined under the Tolowa Dee-ni' Nation Tribal Employment Rights Ordinance (TERO); see "Contractor's Questionnaire" under TERO Department Resources on www.tolowa-nsn.gov.

PROPOSAL SUBMITTAL

Pages in the proposal shall be typed and double sided with the maximum number of pages of proposal information (excepting cover sheet, index sheet, blank pages, and table of contents) to be limited to thirty (30) printed pages. Only the specifically requested information shall be submitted. Promotional or other unsolicited material may not be submitted. If a Consultant recognizes a more efficient method of accomplishing a specific task or item, the Consultant's fee shall reflect the Tribe's requested work and the cost increase/savings for the more efficient method shall be noted separately.

The Consultant shall submit ONE (1) original, unbound proposal and four (4) copies in a sealed box or envelope clearly marked with the Consultant's name and the description "Proposal for Engineering Services for Tolowa Dee-ni' Nation Wastewater Infrastructure Improvements". Electronic or faxed submissions will not be accepted. The proposals shall be received at the Tribe's office by the time and at the location noted on the cover sheet of this RFP. **One (1) set of Consultant's fee for the services required in this proposal shall be submitted along with the copies of the proposal, in a separate sealed envelope with the same notation as the proposals.** Nowhere in the body of the proposal shall pricing be discussed. The sealed envelope shall not be opened until after the screening interviews have been completed (See 'Evaluation Criteria'). The Tribe reserves the right to reject, at its sole discretion, proposals received after this time and date. The Tribe has the right to waive minor irregularities in any proposal received.

EVALUATION CRITERIA

A Review/Selection Committee made up of Tribal staff will evaluate the Consultants based on the proposals and, if necessary, an oral interview to determine which Consultant is best qualified to perform the work for this project. The Committee will then determine a ranking of the Consultants at which time the Consultant fee envelopes will be opened and tabulated. The Consultant fees will be evaluated to determine if the amount of the fee is considered a reasonable cost for the work outlined in the proposal.

If the top-ranked Consultant has submitted a reasonable fee, the Selection Committee will make a recommendation to the Tribal Council that negotiations be opened with the top-ranked consultant to ensure that the consultant has a full understanding of the expectations of the Tribe, that the scope reflects all tasks anticipated to be required to successfully complete the project, and that the fee reflects completion of the project to the satisfaction of the Tribe. In the event that the Tribe and the top ranked Consultant are unable to come to an agreement as to scope and fee, the Tribe reserves the right to close negotiations with the top-ranked Consultant and open negotiations with the second-ranked Consultant. Once an agreement is reached involving the scope and fee, the Selection Committee will make a recommendation to the Tribal Council to award the project to the selected Consultant and to authorize Staff to enter into a Professional Services Agreement with that Consultant. If the Tribal Council is in agreement with the recommendation, Staff will proceed with the completion of the

agreement and prepare for contract execution.

The following items, as they relate to the Scope of Services Tasks described above, will be used by the committee to assist in the ranking of the Consultants' proposal and the oral interview:

- Understanding of the Project
- Experience with Similar Types of Work
- Experience and Qualifications of the Project Manager
- Experience and Qualifications of the Project Team
- Ability to Complete Projects On-Time and Within Budget
- Indian Preference

The Tribe intends to evaluate the proposals and create a short list of up to three (3) proposals. Upon request, proposal originals and the unopened cost for services envelope shall be returned to any Consultant who does not make the short list.

TENTATIVE SCHEDULE

Begin Circulation of RFP to Consultants	(June 23, 2016)
Deadline to Receive Proposals Back	(July 14, 2016)
Evaluate Proposals for Short-Listing	(July 15-19, 2016)
Consultant interviews (if necessary)	(July 21, 2016)
Select Consultant	(July 22, 2016)

TRIBE'S CONTACT

Questions regarding this RFP should be directed to:

Brad Cass, Natural Resources Director
Tolowa Dee-ni' Nation
140 Rowdy Creek Road
Smith River, CA 95567
707.487-9255
bcass@tolowa.com

Clarification offered by the Tribe to one Consultant will be distributed to all known participants at the Tribe's discretion.

STANDARD CONSULTANT AGREEMENT

The Consultant selected to provide the scope of services shall use the Tribe's standard Professional Services Agreement. A template copy of this agreement is attached to this RFP. By submitting a proposal for the work, the Consultant agrees to utilize the Tribe standard agreement form for the contract. Contractually required insurance coverage and endorsement information is shown in the body of the document.

ATTACHMENTS

Figures

Tolowa Dee-ni' Nation Professional Services Contract

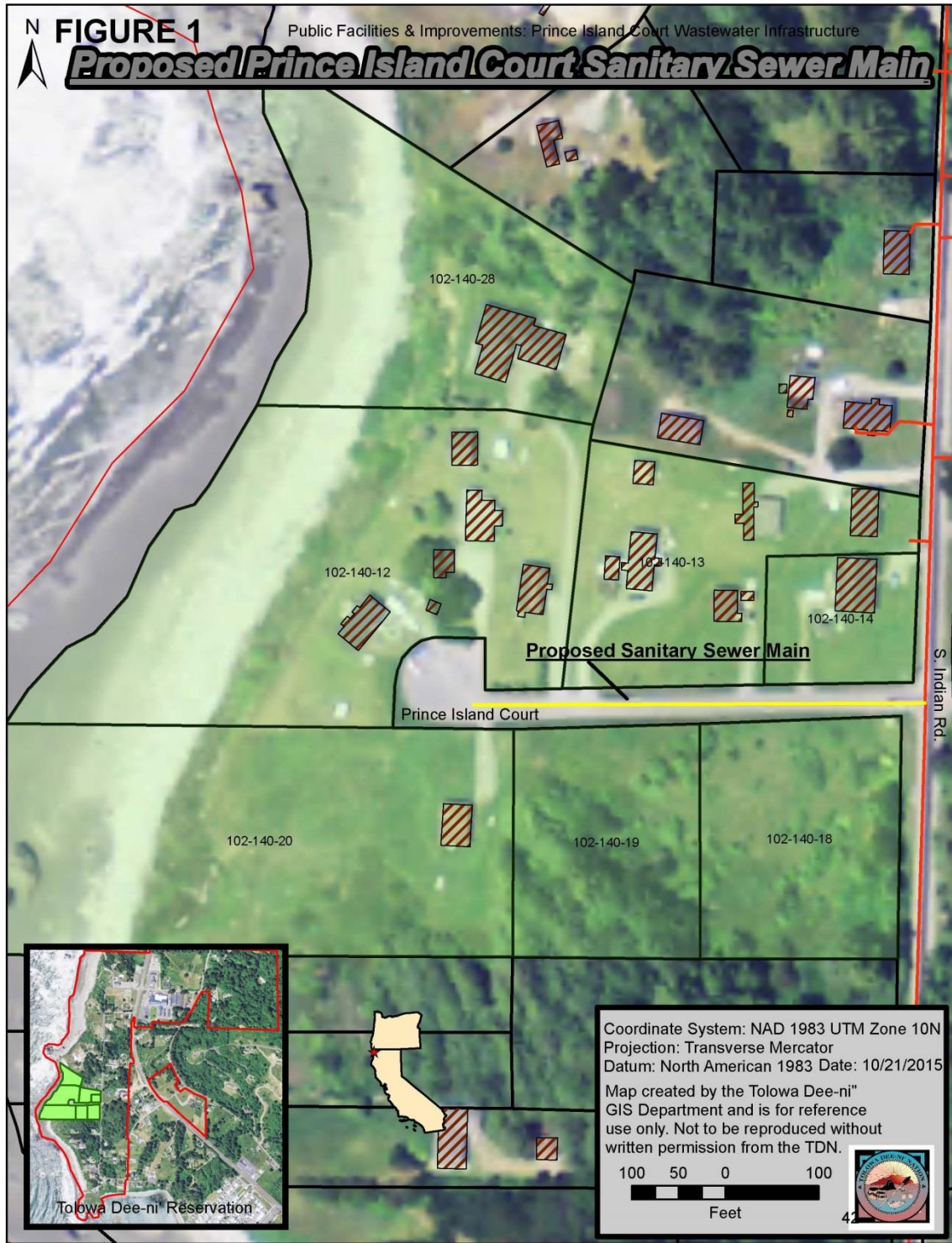
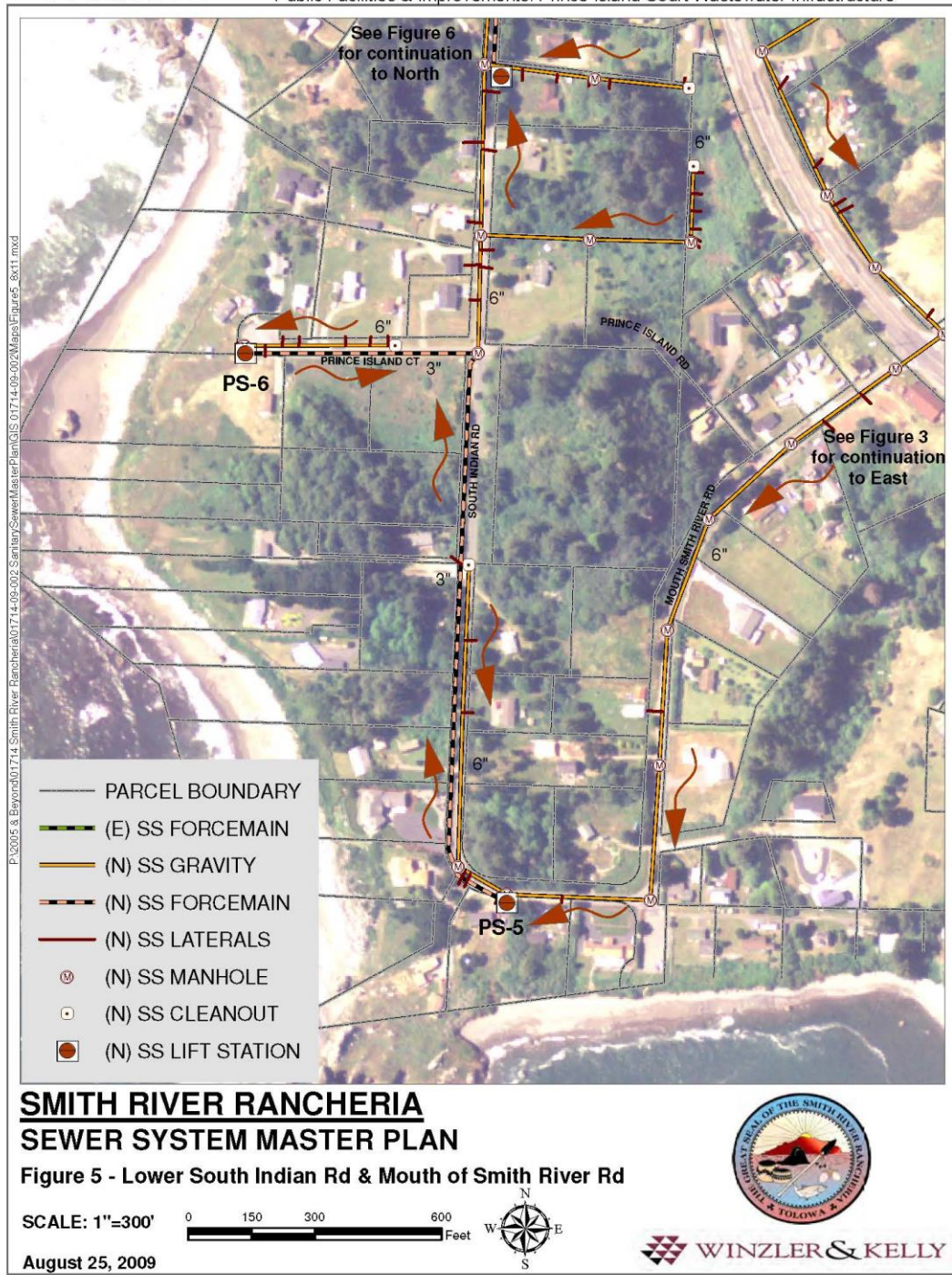


FIGURE 2

Public Facilities & Improvements: Prince Island Court Wastewater Infrastructure



Tolowa Dee-ni' Nation
140 Rowdy Creek Road, Smith River, CA 95567
(707) 487-9255

CONTRACT SUMMARY

Contract Number	CT-XXXX-XXXX			
Contract Amount	\$XXXXXX			
Vendor	NAME	Vendor #	#####	
Project	NAME OF PROJECT			
Purpose	DESCRIPTION			
Timeline	Start Date	XX/XX/XX	End Date	XX/XX/XX
Department(s)	XXXXXXXX			
Fund	XXX			
Program	XXXX			
Activity	XXXX			
TERO Fee	Yes			
GRANT FUNDED	YES		NO	
ADDRESS:	Phone:			
	Email:			
This Contract Summary is for Informational Purposes Only				

Tolowa Dee-ni' Nation

PROFESSIONAL SERVICES CONTRACT

The Tolowa Dee-ni' Nation ("TDN"), 140 Rowdy Creek Road, Smith River California 95567, and **NAME, ADDRESS** ("Contractor") hereby enter into this agreement for professional services effective *February 01, 2016*.

Recitals

1. The Tolowa Dee-ni' Nation is a federally recognized tribe engaging in planning for the reservation.

2. The Chief Executive Officer is the Project Manager for purposes of this Contract.

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1. DUTIES AND RESPONSIBILITIES

1.01 Contractor will competently and in good faith provide those professional services set forth in Article 3. Contractor shall observe all policies, procedures and directives promulgated from time to time by TDN.

1.02 TDN will provide Contractor with the compensation and business expense reimbursement specified in Article 5 of this Contract.

1.03 Contractor shall report to, and receive direction from, the Project Manager.

1.04 Contractor has neither the right nor authority to contract on behalf of TDN without the Project Manager's prior written consent.

ARTICLE 2. TERM OF CONTRACT

2.01 TDN will retain for the Tribal Government, an Independent Contractor beginning **MONTH,DATE, YEAR** and ending **MONTH,DATE, YEAR**, Contractor accepts this engagement.

ARTICLE 3. PROFESSIONAL SERVICES

3.01 Nature of Services.

XX

3.02 Scope of Services. The services to be performed by Contractor are as follows:

a) See Attachment A for detailed Scope of Services.

3.03 Services Not To Be Performed.

a) N/A

3.04 Limitations. Limitations on Contractor's performance of services:

a) N/A

3.05 Independent Contractor. Contractor is performing the services under this Contract as an independent contractor and not as an employee of TDN. Neither Contractor nor any of its employees are eligible to receive any of the rights or benefits otherwise available to TDN employees. Contractor shall be free from the direction and control of TDN over the means and manner of performing services under this Contract, subject only to the right of

TDN to specify the desired results. Contractor shall be solely responsible for payment of all taxes, fees, and salaries due its employees as required by law or other agreement.

3.06 Subcontractors. All of the tasks and projects to be performed pursuant to this Contract shall be performed by the Contractor and its subcontractors. TDN may attach any reasonable condition or limitation to the employment of a subcontractor. Any services that are contracted out to subcontractors shall remain the sole responsibility of Contractor and shall be paid by Contractor.

ARTICLE 4. LICENSURE

4.01 If the professional services to be rendered by Contractor under this Contract require a professional license or certification, Contractor is responsible and required to maintain current licensing or certification as a condition of continued engagement.

4.02 Contractor will pay all licensing/certification fees and costs of any mandatory continuing education associated with maintaining the license or certification.

ARTICLE 5. COMPENSATION

5.01 For time actually spent rendering service, TDN will pay Contractor the following: The maximum amount payable under this Contract is \$X,XXX, (SPELL OUT).

5.02 Payment of all services and expenses will be made within thirty (30) days of presentation of monthly invoices.

5.03 CONTRACTOR shall be solely liable for payment to Tribe for any Tribal Employment Rights Ordinance (TERO) taxes and/or fees which may be applicable under the terms and conditions of the Agreement and the Tribe's TERO. The TERO Fees will be charged at a rate of 2.5% for professional services rendered by CONTRACTOR/Consultant and will be withheld from each payment made, inclusive of all costs and expenses.

ARTICLE 6. PROPERTY RIGHTS OF PARTIES

6.01 Royalties and Patents. Contractor shall pay all royalties and license fees. Contractor shall defend all suits or claims for infringement of any patent rights and shall save TDN harmless from loss on account thereof; except that TDN shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, Contractor has reason to believe that any design, process or product specified is an infringement of a patent, Contractor shall promptly notify the Project Manager. Failure to give such notice shall make the Contractor responsible for resultant loss.

6.02 HUD Policy on Copyrights. HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government Purposes:

(a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and

(b) Any rights of copyright to which a grantee, subgrantee or contractor purchases ownership with grant support.

6.03 Discovery or Invention. Any discovery or invention which arises or is developed in the course of or under this Contract by TDN, Contractor or any Subcontractor is expressly subject to HUD regulations, if any, pertaining to patent rights regarding such discovery or

invention in effect at the time of the execution of this Contract.

6.04 Nondisclosure of Information. Contractor shall not disclose or appropriate for his/her own use, or for the use of any third party, at any time during or subsequent to the term of this Contract, any proprietary or confidential information of TDN or any of TDN's affiliates or subsidiaries of which Contractor has been or hereafter becomes informed, whether or not developed by Contractor, including, but not limited to, information pertaining to customer lists, services, methods, processes, prices, profits, contract terms or operating procedures except as required in connection with Contractor's performance of this Contract, a governmental authority, or other applicable law.

6.05 Work Product. All documents and other work product generated on behalf of TDN in connection with this Contract are the property of TDN.

6.06 Retention of & Access to Accounts & Records. CONTRACTOR shall maintain standard financial accounts, documents, and records relating to the services and materials provided under this Agreement. The CONTRACTOR shall retain these records for three years following the date of final disbursement by HUD to Tolowa Dee-ni' Nation under this Agreement, regardless of the termination date. The records shall be subject to examination and audit by Tolowa Dee-ni' Nation during CONTRACTOR's normal business hours and upon reasonable advance written notice. The CONTRACTOR may use any accounting system that follows the guidelines of "Generally Accepted Accounting Principles" published by the American Institute of Certified Public Accountants.

ARTICLE 7. TERMINATION OF CONTRACT

7.01 Notwithstanding any other provision of this Contract, Contractor may terminate this Contract at any time by giving thirty (30) days' written notice to TDN.

7.02 TDN may terminate this contract in whole, or in part, whenever it determines that such termination is in the best interest of TDN. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which the performance of the work under the Contract is terminated, and the date upon which such termination becomes effective.

7.03 If either party defaults in the performance of this Contract or materially breaches any of its provisions, the non-breaching party may terminate this Contract by giving written notification to the breaching party. Termination will take effect immediately upon receipt of the notice by the breaching party or five (5) days after mailing of the notice, whichever occurs first. For the purposes of this paragraph, material breach of this

Contract includes, but is not limited to, the following:

(a) TDN's failure to pay Contractor any compensation due within thirty (30) days after written demand for payment.

(b) Contractor's failure to complete the services specified in Article 3.

ARTICLE 8. INDIAN SELF-DETERMINATION & EDUCATION ASSISTANCE ACT

8.01 The work to be performed under this Contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C.A. 450e(b)) ("Indian Act"). Section 7(b) requires that to the greatest extent feasible:

(a) Preferences and opportunities for training and employment shall be given to Indians; and

(b) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

8.02 The parties to this Contract shall comply with the provision of section 7(b) of the Indian Act.

8.03 In connection with this Contract, Contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

8.04 Contractor shall include this section 7(b) clause (8.01-8.03) in every subcontract in connection with the project, and shall, at the direction of TDN, take appropriate action pursuant to the subcontract upon a finding by TDN or the U.S. Department of Housing and Urban Development that the subcontractor has violated the section 7(b) clause of the Indian Act.

ARTICLE 9. COMPLIANCE WITH FEDERAL LAWS

As applicable:

9.01 Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. chapter 60).

9.02 Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3).

9.03 Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

9.04 Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

9.05 Contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).

9.06 Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (Pub. L. 94-163, 89 Stat. 871).

ARTICLE 10. GENERAL PROVISIONS

10.01 Notice. Any notices to be given under the Contract by either party to the other will be in writing and may be transmitted by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices will be addressed to the parties at the addresses appearing in the introductory paragraph of this Contract, but each party may change that address by written notice in accordance with this section. Notices delivered personally will be deemed communicated as of the date of actual receipt; mailed notices will be deemed upon five (5) calendar days after the date of mailing.

10.02 Assignment Prohibited. This Contract is for the personal services of Contractor. Contractor may not assign this Contract, Contractor's right to moneys becoming due under this Contract, or Contractor's duties under this Contract to any other person or entity without the written consent of TDN. Any attempt at any such unauthorized assignment shall be void.

10.03 Indemnification. To the fullest extent permitted by law, the Consultant must, to the extent deemed liable, indemnify and hold harmless Tolowa Dee-ni' Nation (TDN) and its guests, agents, and employees from and against all claims, losses & expenses, including but not limited to reasonable attorney's fees arising out of or resulting from the performance of the Consultant's Work pursuant to this Contract to the extent that such claim, damage, loss or expense is caused in whole or in part by any negligent act or omission of the Consultant, anyone directly employed by the Consultant, or anyone for whom the Consultant may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

10.04 Attorney's Fees and Costs. If any legal action or proceeding is necessary to enforce or interpret the terms of this Contract, the prevailing party will be entitled to reasonable attorneys' fees, costs, and expenses in addition to any other relief to which that party may be entitled. This provision will be construed as applicable to the entire contract.

10.05 Access to Records. The Tolowa Dee-ni' Nation and any subgrantee, HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making an audit, examination, excerpt or transcription. Contractor shall retain all such records for a period of three (3) years after final payment under this Contract.

10.06 Reporting Requirements. This Contract is subject to HUD reporting requirements as set forth in 24 C.F.R. 85.40.

10.07 Entire Agreement. This instrument contains the entire agreement of the parties with respect to the subject matter hereof and there are no other promises

representations or warranties affecting it. This Contract supersedes any and all other agreements, either oral or in writing, between TDN and Contractor with respect to the engagement of TDN and Contractor and contains all of the covenants and agreements between the parties with respect to that engagement in any manner whatsoever. Each party to this Contract acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party that are not embodied in the Contract, and that no other agreement, statement, or promise not contained in this Contract will be valid or binding on either party.

10.08 Modification. Any modification of this Contract will be effective only if it is in writing and signed by both parties.

10.09 Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Contract by the other party will not be deemed a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

10.10 Severability. If any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Contract will nevertheless continue in full force without being impaired or invalidated in any way.

10.11 Tribal Court Jurisdiction. By entering into this Contract, Contractor expressly consents to the jurisdiction of the Tolowa Dee-ni' Tribal Court. Any controversy or claim arising out of, or relating to, this Contract shall be heard and adjudicated by the TDN Tribal Court in accordance with all applicable tribal laws, rules, regulations and policies.

10.12 Time is of Essence. Time is of the essence of this Contract and each and every one of its provisions.

10.13 Signatures. This Contract is entered into by the parties on the date set out below as represented by the signatures affixed hereto. Those person signing on behalf of the respective parties represent and attest that they are authorized to sign and to bind their principles.

[This space intentionally left blank]

Executed on the dates indicated below at Del Norte County, California.

TOLOWA DEE-NI' NATION
140 Rowdy Creek Road
Smith River, CA 95567

By: _____ Date: _____
Briannon Fraley, Interim Chief Executive Officer

By: _____ Date: _____
Loren Me'-lash-ne Bommelyn, Tribal Chairman

CONTRACTOR

NAME

ADDRESS

By: _____ Date: _____

Name: _____

Title: _____

Attachments

A: ***Scope of Work***

B: ***FEE SCHEDULE (IF APPROPRIATE)***